

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

UNITED STATES OF AMERICA

PLAINTIFF

v.

Civil Action No: 1:08cv1463LG-RHW

\$7,708.78 IN U.S. CURRENCY, ET AL

DEFENDANT
PROPERTY

FINAL JUDGMENT AND DEFAULT JUDGMENT OF FORFEITURE
AS TO THOMAS TRIEU, THU-HOA VICTORIA VAN, ASHLEY P. TRIEU,
AND WACHOVIA FEDERAL SAVINGS BANK

The United States of America (“Government”) and Claimants Thomas Trieu, Thu-Hoa Victoria Van, Ashley P. Trieu, and Wachovia Federal Savings Bank, by and with the consent of their counsels, have represented to the Court that this portion of the case has been settled, pursuant to the settlement agreements entered into by the Claimants Thomas Trieu and Thu-Hoa Victoria Van [104], Ashley P. Trieu [109] and Wachovia Federal Savings Bank [110]. The agreements include the granting of a judgment in favor of the Government as to the remaining property listed in Exhibit “A” as attached and incorporated herein, which property shall belong to and be property of the Government. To accomplish this final judgment as to the above-named Claimants and for the purpose of concluding this portion of this case, the Court makes the following findings:

1. The Verified Complaint for Forfeiture in this matter was filed on December 10, 2008 [1].
2. Following the filing of the complaint, a copy of the Notice of Complaint for Forfeiture, with other pertinent documents, was served upon all potential Claimants [78].

3. On March 31, 2009 and April 7, 2009, publications of the Notice of Complaint for Forfeiture Action were duly completed in accordance with Rule G(4) of the Supplemental Rules of Admiralty or Maritime Claims and Asset Forfeiture Actions [65, 68, 69, and 70].

4. The notice informed all persons or entities known and unknown that this forfeiture action was pending, that in order to avoid forfeiture of the defendant property listed in Exhibit "A" attached to the Complaint, any person who asserts an interest in the defendant property must file a verified claim within thirty-five (35) days after the date of the notice, if the notice is delivered by mail, or within thirty-five (35) days of the date of delivery, if the notice is personally served and not sent by mail. Further, for guidance in the preparation of their claims and answers, the notice referred any such persons or entities to Rule G(5)(a)(ii) of Supplemental Rules of Certain Admiralty and Maritime Claims, Title 28, United States Code.

5. Following receipt of the notice, Claimants Thomas Trieu, Thu-Hoa Victoria Van, Ashley P. Trieu, and Wachovia Federal Savings Bank timely and properly filed claims and answers with this Court, regarding the property listed in Exhibit "A" attached and incorporated herein. No claim, answer, or other pleading remains outstanding, or has been filed by any other person or entity, nor has any other person or entity made an appearance herein, with regard to the property listed in Exhibit "A" attached and incorporated herein. Therefore, as hereafter ordered, the Government is entitled to a default judgment of forfeiture against any and all persons or entities (except Claimants, Thomas Trieu, Thu-Hoa Victoria Van, Ashley P. Trieu, and Wachovia Federal Savings Bank) having or claiming an interest therein with regards to the defendant property described in Exhibit "A" attached and incorporated herein.

6. WHEREAS the following has occurred towards settlement in this case:

a. The Government and the Claimants Thomas Trieu and Thu-Hoa Victoria Van have come to an agreement to settle their claims as evidenced by the Settlement Agreement filed on June 8, 2010 [104].

b. The Government has recognized Claimant Thomas Trieu and Thu-Hoa Victoria Van's interests in certain property described in the Settlement Agreement by dismissing that property in the Order Dismissing Certain Real and Personal Property From Forfeiture filed on July 14, 2010 [106].

c. Pursuant to the Settlement Agreement, the Government has agreed to refund the amount of \$250,000.00 of the funds held in Merrill Lynch account #XXXX5981, and therefore all funds remaining in this account will be forfeited to the United States of America.

d. The Government and the Claimant Ashley P. Trieu have come to an agreement to settle her claim by recognizing her 10% interest in Parcel No. 20, as evidenced by the Settlement Agreement filed on August 23, 2010 [109].

e. The Government and Claimant Wachovia Federal Savings Bank have come to an agreement to settle its claim as to Parcel No. 11, as evidenced by the Stipulation to Recognize Claim filed on September 21, 2010 [110].

IT IS, THEREFORE, ORDERED AND ADJUDGED AS FOLLOWS:

a. The Government is hereby given a default judgment of forfeiture against the interests of any and all other persons or entities (except Claimants, Thomas Trieu, Thu-Hoa Victoria Van, Ashley P. Trieu, and Wachovia Federal Savings Bank) having or claiming an interest in the remaining defendant property attached in Exhibit "A";

b. Title to the defendant property referred to in Exhibit "A" is hereby vested in the United States of America and any claims or interests therein of any persons or entities,

including Claimants Thomas Trieu, Thu-Hoa Victoria Van, Ashley P. Trieu, and Wachovia Federal Savings Bank (except as hereafter ordered), are hereby canceled (except the interest of Wachovia Federal Savings Bank, described in the Stipulation [110]);

c. The United States Marshal Service is directed to obtain the funds held in the listed bank accounts from the respective financial institutions, including all of the funds held in Merrill Lynch account #XXXX5981, as agreed in the settlement agreement [104];

d. The United States Marshall will pay via wire transfer \$250,000.00 of the funds obtained from Merrill Lynch account #XXXX5981 to Claimants Thomas Trieu and Thu-Hoa Victoria Van, into an account held by their attorneys; the account information being provided to the United States Marshal by the United States Attorney, pursuant to the settlement agreement [104];

e. The United States Marshals is to retain the remaining funds in the Merrill Lynch account #XXXX5981 (08-DEA-503815) and dispose of it in accordance with law and regulations;

f. The defendant real and personal property described in the attached Exhibit “A” is referred to the custody of the United States Marshal for disposition in accordance with law and regulation and in compliance with the terms of their settlement agreement [104] and the stipulation with Ashley P. Trieu [109] and the stipulation with Wachovia Federal Savings Bank [110] ; and

g. The United States Attorney is directed to file and record a certified true copy of this judgment in the land records of the Second Judicial District of Harrison County, Mississippi.

7. This final judgment and default judgment settles all issues in this case between the Government and Claimants; and this judgment constitutes a release and hold harmless agreement between the Government and Claimants, and it is ordered that the Government, its agents, representatives, and employees shall be and are hereby released from any liability, claims, demands, damages, suits and causes of action caused by or as a result of this forfeiture action, any claim or demands for attorney fees (including those, if any, authorized by the Equal Access to Justice Act, the Hyde Amendment, and any other law).

8. This final judgment is intended to fully and finally conclude all issues and proceedings relating only to the property listed in Exhibit "A," which is attached and incorporated herein, and it is hereby closed for all purposes as to said property, subject to its being reopened for violation of the terms of this order.

SO ORDERED AND ADJUDGED this the 13th day of October, 2010.

s/ *Louis Guirola, Jr.*

Louis Guirola, Jr.
United States District Judge